

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
ILLINOIS NATIONAL INSURANCE COMPANY, :
THE INSURANCE COMPANY OF THE STATE OF :
PENNSYLVANIA, and NATIONAL UNION FIRE :
INSURANCE COMPANY OF PITTSBURGH, PA, :
:
Plaintiffs, :
:
-v- :
:
TUTOR PERINI CORPORATION, :
:
Defendant. :
:
-----X

11 Civ. 431 (KBF)

ORDER

KATHERINE B. FORREST, District Judge:

On May 15, 2012, plaintiffs Illinois National Insurance Company, The Insurance Company of the State of Pennsylvania, and National Union Fire Insurance Company of Pittsburgh, PA (the "Chartis Insurers") moved to strike all references to defendant Tutor Perini Corporation's ("Tutor") risk management office being located in Massachusetts in Tutor's opposition to the Chartis Insurers' motion for judgment on the pleadings. Tutor filed its opposition to the motion on June 1, 2012.

Rule 12(f) of the Federal Rules of Civil Procedure allows a court, on its own accord or by motion (within a specified time period), to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f) (emphasis added). A "pleading" is only a

complaint, an answer, and cross- or counter-claims. Fed. R. Civ. P. 7(a). A pleading is not, however, an opposition to a motion to dismiss. See, e.g., Katz v. Mogus, No. 07 Civ. 8314, 2009 WL 3189342, at *5 (S.D.N.Y. Oct. 6, 2009); see also Huelbig v. Aurora Loan Servs., LLC, No. 10 Civ. 6215, 2011 WL 4348281, at *2 (S.D.N.Y. May 18, 2011) (collecting cases). Accordingly, it is hereby

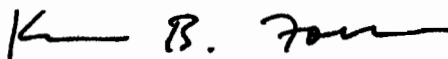
ORDERED that the Chartis Insurers' motion to strike all references to Tutor's risk management office being located in Massachusetts in Tutor's opposition to the motion for judgment on the pleadings is DENIED.

IT IS FURTHER ORDERED that any second amended answer by Tutor to correct certain "typographical errors" to be filed with the Chartis Insurers' consent (see Dkt. No. 64 at 4 n.5) shall be filed no later than June 22, 2012.

The Clerk of the Court is directed to terminate the motion at Dkt. No. 62.

SO ORDERED:

Dated: New York, New York
June 19, 2012


KATHERINE B. FORREST
United States District Judge